

**LEGISLATIVE SERVICES AGENCY  
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**FISCAL IMPACT STATEMENT**

**LS 6716**

**BILL NUMBER:** HB 1215

**NOTE PREPARED:** Dec 28, 2011

**BILL AMENDED:**

**SUBJECT:** Synthetic Drugs.

**FIRST AUTHOR:** Rep. Yarde

**FIRST SPONSOR:**

**BILL STATUS:** As Introduced

**FUNDS AFFECTED:** ☒ **GENERAL**  
☒ **DEDICATED**  
**FEDERAL**

**IMPACT:** State & Local

**Summary of Legislation:** *State Police Emergency Rules-* The bill permits the Superintendent of the Indiana State Police Department (ISP), in consultation with the State Board of Pharmacy (SBOP), to adopt an emergency rule declaring a substance to be a dangerous analogue substance if the Superintendent finds that the substance: (1) is likely to have a similar effect on a user as a synthetic cannabinoid; and (2) is likely to be at least as dangerous as a synthetic cannabinoid. The bill provides that a rule declaring a substance to be a dangerous analogue substance becomes effective 30 days after the rule is filed, and that the rule expires on June 30 of the calendar year following the calendar year in which the rule was adopted.

*Definition of "Synthetic Cannabinoid"-* The bill adds a substance determined to be a dangerous analogue substance to the definition of "synthetic cannabinoid".

**Effective Date:** July 1, 2012.

**Explanation of State Expenditures:** *State Police Emergency Rules-* The provision would give the ISP the option to adopt emergency rules to maintain enforcement on updated changes to the compounds used to produce a "synthetic cannabinoid" not currently in the codified definition of "synthetic cannabinoid". It is likely that the ISP would be able to accomplish the development of emergency rules within the agency's existing level of resources.

*Definition of "Synthetic Cannabinoid"-* The adoption of emergency rules by the ISP would make new combinations of compounds deemed to be a "synthetic cannabinoid" (colloquial terms include: "spice" and "k2") to be considered a synthetic cannabinoid and subject to the same criminal penalties as the possession of a "synthetic cannabinoid" would entail.

Under current law, an initial possession of a synthetic cannabinoid constitutes a Class A misdemeanor with no other prior nonrelated violations. A second possession offense is a Class D felony. Possession of larger amounts and trafficking of synthetic cannabinoids constitute more severe felony penalties.

A Class D felony is punishable by a prison term ranging from six months to three years or reduction to Class A misdemeanor depending upon mitigating and aggravating circumstances. The average expenditure to house an adult offender was \$18,836 in FY 2011. (This does not include the cost of new construction.) If offenders can be housed in existing facilities with no additional staff, the marginal cost for medical care, food, and clothing is approximately \$3,318 annually, or \$9.09 daily, per prisoner. The estimated average cost of housing a juvenile in a state juvenile facility was \$75,591 in FY 2011. The average length of stay in Department of Correction (DOC) facilities for all Class D felony offenders is approximately ten months.

**Explanation of State Revenues:** It is not known if additional rules would increase the number of persons arrested and convicted of possession or dealing of a synthetic cannabinoid. The maximum fine for a Class A misdemeanor is \$5,000. The maximum fine for a Class D felony is \$10,000. Criminal fines are deposited in the Common School Fund.

However, if additional cases are filed in a circuit, superior, or county court, 70% of the \$120 criminal costs fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund. In addition, some or all of the document storage fee (\$2), automated record keeping fee (\$5), judicial salaries fee (\$19), public defense administration fee (\$5), court administration fee (\$5), judicial insurance adjustment fee (\$1), and the DNA sample processing fee (\$2) are deposited into the state General Fund.

**Explanation of Local Expenditures:** If more persons were convicted of Class A misdemeanors or Class D felonies as a result of the bill, local expenditures could increase to house the additional offenders. The average cost per day is approximately \$44.

**Explanation of Local Revenues:** If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: The county general fund would receive 27% of the \$120 criminal costs fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of the criminal costs fee. In addition, several additional fees may be collected at the discretion of the judge and depending upon the particular type of criminal case.

**State Agencies Affected:** Indiana State Police; State Board of Pharmacy.

**Local Agencies Affected:** Trial courts, local law enforcement.

**Information Sources:**

**Fiscal Analyst:** Chris Baker, 317-232-9851.